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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

In Re Bard IVC Filters Products
Liability Litigation

No.: MD-15-02641-PHX-DGC

GEORGE LEUS, an individual,

Plaintiff,

v.

PLAINTIFF GEORGE LEUS' MOTION
FOR REMAND AND/OR TRANSFER TO
THE TRANSFEROR DISTRICT COURT
AND MEMORANDUM IN SUPPORT

C.R. BARD, INC., a New Jersey
Corporation and BARD PERIPHERAL
VASCULAR, an Arizona corporation,

(Assigned to the The Honorable
David G. Campbell)

Defendants.

Plaintiff George Leus submits his Motion for Remand and/or Transfer to the Transferor
Court and Memorandum in Support.

1. On June 11, 2013, plaintiff George Leus filed a civil action against C.R. Bard, Inc. and Bard Peripheral Vascular (Hereinafter collectively known as “*Bard*”) in the United States District Court for the Western District of Missouri – Western Division (Case No.: 4:13 – CV00585-GAF) (Hereinafter known as the “*Transferor District Court*”) alleging he suffered physical and emotional injuries, including, but not limited to, bi-lateral above-the-knee amputations, as a result of a defective Bard G2 IVC Filter.
2. On August 17, 2015 the United States Judicial Panel on Multidistrict Litigation (Hereinafter known as the “*JPML*”) signed a Transfer Order transferring plaintiff’s case to the United States District Court – District of Arizona (Hereinafter known as the “*Transferee District Court*”) under 28 U.S.C. s1407 “*solely*” for coordinated or consolidated pretrial proceedings under Case No.: MD-15-02641-PHX-DGC. George Leus’ case was one of the initial twenty-two (22) cases transferred under the Transfer Order. At the time his case was transferred substantial discovery, including the designation and deposition of expert witnesses, had been conducted.
3. Plaintiff previously filed a “Motion for Remand to Transferor District Court” on July 16, 2018 (Doc 11876) after completion of the Booker G2 Bellwether trial. Bard opposed said remand and the Court denied said Motion (Doc 12072).
4. On July 10, 2019 a Joint Memorandum was filed (Doc 19445) in accordance with Case Management Order No. 42 (Doc 16343) identifying cases in the MDL that fell within Track 1 (Tentatively Resolved Cases) or Track 2 (Cases subject to Settlement Discussions). Plaintiff George Leus’ case was listed erroneously as a case falling with Track 1.

5. There has been no settlement in plaintiff George Leus' case and his case has not been the subject of any settlement discussions. Plaintiff believes it is not in his best interest to settle his case at this time.
6. Plaintiff George Leus believes it is in his best interest and elects that his case be remanded by the JPML or transferred under 1404(a) to the Transferor District Court for continued prosecution.
7. Case Management Order No. 42 (Doc 16343) advised the parties that "*it does not intend to delay remand or transfer of MDL cases after a reasonable opportunity to settle*" and "[A]ll cases in Track 1 for which a stipulated dismissal has not been filed by November 1, 2019 will be recommended to the JPML for remand or will be transferred under §1404(a)."
8. Plaintiff George Leus has not agreed to waive *Lexecon*.
9. On July 10, 2019 a Joint Proposed Report (Doc 19444) was filed pursuant to Case Management order No. 42 (Doc 16343) updating and filing the stipulated Designation of Record, Pertinent Orders, Bellwether Trial Exhibits and Joint Proposed Report to be sent with remanded and transferred cases (Hereinafter collectively known as "Designation of Record").
10. All Bellwether trials have been completed and plaintiff George Leus has nothing to gain by his case remaining in the MDL.

WHEREFORE, plaintiff George Leus respectfully requests this Court's Order remanding and/or transferring his case to the Transferor District Court and directing the Clerk of the Court to provide the Transferor District Court with the ZIP File containing the Designation of Record.

Respectfully Submitted,

/s/ Joe Johnson

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COUNSEL FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November, 2019, the foregoing was electronically filed with the clerk of the Court using CM/ECF system which will automatically send email notification of such filing to all attorneys of record and a copy delivered via U.S. Mail, postage prepaid to:

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**ATTORNEYS OR DEFENDANTS C.R. BARD, INC.
AND BARD PERIPHERAL VASCULAR, INC.**

/s/ James Cannon

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